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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	Case No. 23-CR-00269 JSW-3
	)	
Plaintiff,	)	<b>STATUS STATEMENT</b>
	)	
v.	)	
	)	
DEVON CHRISTOPHER WENGER,	)	
	)	
Defendant.	)	

1 In advance of the status conference scheduled for March 25, 2025, Dkt. No. 393, the government  
2 respectfully submits the following status report:<sup>1</sup>

3 ***Government's statement:*** The government intends to retry Defendant Devon Wenger following  
4 his counsel's motion for mistrial based on her inability to provide effective representation during trial.  
5 Dkt. No. 352; *see also Oregon v. Kennedy*, 456 U.S. 667, 673 (1982) (the general rule is that the Double  
6 Jeopardy Clause "is no bar to retrial" where it is the defendant who seeks a mistrial).

7 In response to the Court's order, the government states that it will be available for the retrial in  
8 the summer of 2025. If the Court sets the retrial during that time, the government respectfully requests  
9 that it be set on a date between July 14–August 1, 2025 based on the availability of witnesses and  
10 government counsel. The government anticipates its case-in-chief for any retrial of Defendant Wenger  
11 will last no more than six court days.

12 ***Defendant's statement:*** Wenger is not waiving time and is requesting it set by statute.  
13

14 DATED: March 20, 2025

Respectfully submitted,

15 PATRICK D. ROBBINS  
16 Acting United States Attorney

17 /s/  
18 ERIC CHENG  
19 AJAY KRISHNAMURTHY  
20 ALEXANDRA SHEPARD  
21 Assistant United States Attorneys  
22

23 <sup>1</sup> On March 17, the government sent a draft joint status statement to counsel for Defendant  
24 Wenger, Ms. Nicole Lopes, and requested to meet and confer. On March 18, the government met and  
25 conferred with Ms. Lopes, who advised the government that her client would not waive time and  
26 intended to invoke his right to a speedy trial. On March 19 at 4:47 pm, Ms. Lopes emailed the  
27 government with the insert currently provided in this filing under "Defendant's statement." However, at  
28 5:40 pm, Ms. Lopes emailed the government again indicating she would prepare a further response. The  
government followed up today, March 20, but has not received any further response from Ms. Lopes.  
Since then, counsel for Wenger filed the declaration of Mr. Bill Seki stating that Ms. Lopes "has asked  
the firm to inform the court that she will be unable to respond to the Court's Orders due to her protected  
medical leave." Dkt. No. 406. The government therefore submits this statement without a signature for  
counsel for Wenger, given the apparent unavailability of Ms. Lopes at this time.